
In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 18.1.2007.

Vishnu Dutt

.... Appellant.

vs

Suresh Kumar

.....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Ashwani Gaur,Advocate,for the appellant.

Kiran Anand Lall, J.

This is plaintiff's regular second appeal, who has lost in both the courts below. The relief claimed in the suit was, for permanent injunction restraining the respondent from taking unauthorised possession of the disputed plot and the room, marked by letters ABGH and CDEF respectively and shown in red colour in the site plan, Ex.P1, from him, and also from opening a door in the wall CF. According to him, he had inherited the suit property from his father, Duli Chand, and it is in his possession and prior to him, it was in the possession of his father, for the last about 50 years. He had to file the suit, as the respondent, who has no connection with it, wanted to take its unauthorised possession.

The respondent contested the suit by taking up several pleas which would be clear from the following issues framed by the trial court on 11.10.2002:-

1. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for? OPP
2. Whether the plaintiff has not approached the court with clean hands and has suppressed the true and material facts from the court? OPD
3. Whether the plaintiff has no cause of action to file the present suit? OPD

4. Whether the plaintiff has no locus-standi to file the present suit? OPD
5. Relief.

After recording evidence of both parties, the trial court recorded a firm finding that the appellant had failed to prove his ownership and even possession over the suit property. It took a specific note of the fact that the appellant had admitted, in cross-examination, that the room in question already stood demolished by the Municipal Committee, and at present, the disputed site is in the shape of a public street and is being used as such by the public. As mentioned in para no.14 of the judgment, the respondent has already installed a gate, at the spot.

The first appellate court also affirmed the judgment of the trial court, in entirety. In fact, in so far as the disputed room is concerned, it is mentioned in para no.11 of the judgment that, during the course of arguments, the appellant had given up his claim with regard thereto, and had further stated that room had already been demolished by the Municipal Committee. It was further held that the appellant had failed to prove his ownership or even possession of the suit property.

No substantial question of law arises for determination in this appeal. Learned counsel for the appellant, infact, himself conceded during arguments that no such question was involved.

Dismissed.

18.1.2007.
vs.

(Kiran Anand Lall)
Judge.